## UNITED STATES DISTRICT COURT WESTERN DISTRICT OF WASHINGTON AT SEATTLE

JAMES MCDONALD,

Plaintiff.

ONEWEST BANK, FSB, NORTHWEST TRUSTEE SERVICES, INC., MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., INDYMAC BANK FSB, DOES 1-50,

Defendants.

No. C10-1952 RSL

DECLARATION OF JC SAN PEDRO IN SUPPORT OF DEFENDANTS' **OPPOSITION TO PLAINTIFF'S** REQUEST FOR TRO

I, JC San Pedro, hereby declare:

I am a Vice President of IndyMac Mortgage Services, a division of OneWest Bank, FSB ("OneWest"), Defendant herein. This Declaration is made in support of Defendants' Opposition to Plaintiff's request for Temporary Restraining Order. I am familiar with the loan transactions at issue in this litigation, and make my declaration based on my review and understanding of records that OneWest Bank maintains in the ordinary course of business. I have reviewed the records that pertain to the McDonald Loan and as to the following facts, I know them to be true of my own knowledge or I have gained knowledge of them from the business records of OneWest on behalf of OneWest, which records were made at or about the time of the events recorded, and are maintained in the ordinary course of OneWest's business at or near the time of the acts, conditions or events to which they relate. Any such document was prepared in the ordinary course of business of OneWest by a person

DECLARATION OF JC SAN PEDRO IN SUPPORT OF DEFENDANTS' OPPOSITION - PAGE 1 OF 3 CASE NO. C10-1952 RSL

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who had personal knowledge of the event being recorded and had or has a business duty to record accurately such event. As to OneWest's business records that consist of documents created by third parties, OneWest relies on the accuracy of such records in conducting its business. If called as a witness, I could testify competently thereto.

- 2. Freddie Mac is the investor on the Loan, and prior to March 2009, IndyMac serviced the loan for Freddie Mac.
- 3. In March 2009, OneWest Bank Group LLC acquired IndyMac's assets and operations from the FDIC. Pursuant to this purchase, OneWest acquired all home mortgage loans owned by IndyMac at the time IndyMac went into receivership and all servicing rights on Freddie Mac loans, including the servicing rights to Plaintiff McDonald's loan that is the subject of this lawsuit.
- 4. OneWest services the loan on behalf of Freddie Mac pursuant to a servicing agreement. As part of that servicing agreement, OneWest has possession of the Note, which is endorsed in blank and attached to Defendants' Opposition as **Exhibit 1**, and is entitled to collect payments, initiate foreclosure upon borrower's default, and review Plaintiff's loan for possible modification in accordance with investor guidelines.
- 5. Plaintiff defaulted by failing to make the payment due on October 1, 2009, and every payment thereafter due.
- 6. The Assignment, which is attached to Defendants' Opposition as **Exhibit 3**, from MERS to OneWest was signed by Brian Burnett.
- 7. Brian Burnett is an employee of OneWest and has signing authority on behalf of MERS.
- 8. In April 2010, Plaintiff applied for a HAMP modification review of his loan, which was later denied.

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- 9. After received Plaintiff's lawsuit, on December 8, 2010, Defendants agreed to postpone the December 10, 2010, sale date in order for Plaintiff to reinstate the loan and/or request a modification.
- 10. Following the postponement in December 2010, Plaintiff did not make any attempts to communicate with OneWest in furtherance of reinstatement or modification.
- Attached to Defendants' Opposition are true and correct copies of the 11. following documents:
  - a. The promissory note signed by James B. McDonald and endorsed in blank, which is attached to Defendants' Opposition as **Exhibit 1**.
  - b. The deed of trust signed by James B. McDonald and recorded under King County Auditor's File No. 20070110002077 attached to Defendants' Opposition as **Exhibit 2**.
  - c. The assignment of deed of trust recorded under King County Auditor's File No. 20100204000502 attached to Defendants' Opposition as **Exhibit 3**.
  - d. The appointment of successor trustee recorded under King County Auditor's File No. 20100204000503 attached to Defendants' Opposition as **Exhibit 4**.

I declare under penalty of perjury and the laws of the State of Washington that the foregoing is true and correct to the best of my knowledge.

SIGNED this 12th day of January, 2011.

**ONEWEST BANK, FSB**